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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, *et al.*

Plaintiffs,

V.

UNITED STATES OFFICE OF PERSONNEL
MANAGEMENT, *et al.*,

Defendants.

Case No. 3:25-cv-1780-WHA

ADMINISTRATIVE MOTION TO FILE AGENCY DECLARATIONS AND LISTS OF EMPLOYEES UNDER SEAL

Honorable William H. Alsup

Pursuant to Civil Local Rule 7-11 and 79-5(c), Defendants move to file under seal unredacted copies of federal-employee information as part of their submission under Paragraph 5 of this Court's April 18, 2025 preliminary injunction order. *See* Order on Mot. for Prelim. Inj. by Union Pls. & State of Wash. at 26, ¶ 5, ECF No. 202 ("Order"). In that Order, the Court ordered the various relief defendant agencies to take certain steps regarding an OPM template termination notice that had been provided to probationary employees at the relief defendant agencies. *See id.* ¶¶ 2-6. The Court ordered that relief defendant agencies using the template could direct a written statement to the affected probationary employees. *See id.* ¶ 4. However, the Court also offered the relief defendant agencies the alternative of submitting "a declaration, under oath and seal, stating" that the termination of an employee using the OPM template termination notice was "carried out after an individualized evaluation of that employee's performance or fitness." *Id.* ¶ 5. The Court further directed that any such materials would "provid[e] the individual reasoning underpinning that termination." *Id.*

In compliance with paragraph 5 of the Court's Order, a number of agencies are submitting declarations and lists of employees that were terminated after an individualized evaluation of that employee's performance or fitness. Per the Court's instructions, Defendants seek to seal the unredacted declarations and lists while submitting the redacted declarations on the public docket.

Because the information Defendants seek to seal is not being submitted in support of any argument for relief on the merits, but rather to comply with the Court's Order, the "good cause" standard for sealing applies. *See Ctr. for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016) (internal citations omitted). Even under the more stringent "compelling reasons" standard for sealing some information, courts in this District routinely order the sealing of third-party personal identifying information ("PII"). *See, e.g., Opperman v. Path, Inc.*, No. 13-cv-453, 2017 WL 1036652, at *4 (N.D. Cal. Mar. 17, 2017) (exhibit containing "the names, email addresses, and phone numbers of non-part[ies]" provided "compelling reasons to seal [it] in its entirety").

In this case, there is both good cause and a compelling reason to protect federal employee PII from public disclosure here. First, absent an applicable exemption, the Privacy Act protects such information from disclosure. *See* 5 U.S.C. § 522a(b). Second, the federal employees identified in the documents are not parties to this litigation and have their own privacy interests; therefore there is no

1 need for public disclosure of their identities or their PII at this point in the proceedings. *See Foltz v.*
2 *State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1137 (9th Cir. 2003) (recognizing the need to “protect
3 third-party privacy interests” in “personnel records”). If sealing were denied, the names and PII of third-
4 party employees will be exposed to public attention in this high-profile litigation. And because the
5 Court’s Order specifically requires the submission of employee PII and that this is to be done under seal,
6 *see* Order at 26, no less-restrictive alternative (such as redacting that information) is sufficient here.

7 CONCLUSION

8 Defendants respectfully request this Court grant this Motion and permit unredacted copies of the
9 following documents to be filed under seal:

- 10 1. U.S. Department of Agriculture’s declaration providing details of employees whose
11 terminations were carried out after an individualized evaluation of their performance.
 - 12 2. U.S. Department of Defense’s declaration providing details of employees whose
13 terminations were carried out after an individualized evaluation of their performance.
 - 14 3. U.S. Department of Defense’s list of employees whose terminations were carried out
15 after an individualized evaluation of their performance.
 - 16 4. U.S. Department of Energy’s unredacted declaration providing details of employees
17 whose terminations were carried out after an individualized evaluation of their performance.
 - 18 5. U.S. Department of State’s unredacted declaration providing details of employees whose
19 terminations were carried out after an individualized evaluation of their performance.
 - 20 6. U.S. Veterans’ Administration’s declaration providing details of employees whose
21 terminations were carried out after an individualized evaluation of their performance.
 - 22 7. U.S. Veterans’ Administration’s declaration providing details of one employee whose
23 termination was carried out after an individualized evaluation of that employee’s performance.
 - 24 8. National Science Foundation’s list of one employee terminated on an individualized
25 basis.
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27
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Respectfully submitted,

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